

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA

NEAL FLOWERS,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case Number CIV-21-637-C
	)	
KEN MOORE, et al.,	)	
	)	
Defendants.	)	

**ORDER ADOPTING REPORT AND RECOMMENDATION**

Plaintiff filed the present civil rights action seeking recompense for alleged wrongs related to his arrest. Pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B), the matter was referred to United States Magistrate Judge Amanda Maxfield Green. Judge Green entered a Report and Recommendation (“R&R”) on September 27, 2021, recommending the Petition be dismissed for failure to comply with the Court’s Orders related to Plaintiff’s in formal pauperis (“IFP”) application. Plaintiff has timely objected.

The substantive facts are set out in Judge Green’s R&R and are only summarized here. Initially, Plaintiff failed to submit his first request to proceed IFP on the proper form and it lacked certain documentation. At the direction of the Court, Plaintiff then submitted a second application. That application was on the proper form but failed to provide a certified copy of Plaintiff’s institutional account. Plaintiff then submitted a third application. That filing also failed to provide a certified copy of the trust fund account. Judge Green then recommended dismissal of the action for failure to submit a proper IFP application.

In his Objection, Plaintiff asserts he is uncertain how to comply with the Court's Orders as he has not been in a state-run facility for six months. Plaintiff notes that he originally was held in the Garvin County Jail, then moved to Lexington Assessment and Reception Center ("LARC"), then transferred to Lawton Correctional Facility. Plaintiff notes that he has not been in any facility for a six-month time period. Plaintiff also for the first time submits a copy of his ODOC Offender Statement Report. That document shows that as early as February 1, 2021, Plaintiff was without sufficient funds to pay the filing fee and that his financial condition has not changed. While Plaintiff has not fully complied with the requirements of LCvR 3.3, analysis of each of the documents he has submitted persuades the Court he is entitled to proceed IFP in this matter.

Accordingly, the Court ADOPTS, in full, the factual findings of the Report and Recommendation of the Magistrate Judge (Dkt. No. 16). However, the Court declines to adopt the recommendation for dismissal and finds that Plaintiff has established he is entitled to proceed IFP. Accordingly, Plaintiff's Motion for Leave to Proceed in Forma Pauperis (Dkt. No. 14) is GRANTED. Plaintiff's Motions to Proceed in Forma Pauperis (Dkt. Nos. 2 & 6) are STRICKEN as moot. This matter is recommitted to Judge Green for further proceedings consistent with Court's June 24, 2021, Order of Referral.

IT IS SO ORDERED this 14th day of October 2021.

  
ROBIN J. CAUTHRON  
United States District Judge